

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Cause No. 1:06-cr-0041-JMS-MJD-1
)	
SCOTT FOOR,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

On May 26, 2015, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on May 19, 2015. Defendant Foor appeared in person with his appointed counsel, Mike Donahoe. The government appeared by Cindy Cho, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Chris Dougherty.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Foor of his rights and provided him with a copy of the petition. Defendant Foor waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Foor admitted violations 2 and 3. [Docket No. 6.] Government orally moved to dismiss violation 1 and the same granted.
3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

**Violation
Number**

Nature of Noncompliance

- 2 **“The defendant shall refrain from any unlawful use of a controlled substance.”**

The offender submitted five urine screens which have tested positive for cocaine on February 18, 2015; March 4, 2015; April 22, 2015; May 6, 2015; and May 11, 2015. The offender admitted he ingested cocaine to produce one of these positive screens. All but the last two positives tests have been reported to the Court.

- 3 **“The defendant shall reside for a period of 6 months at a Residential Reentry Center (RRC) as directed by the probation officer and shall observe the rules of that facility.”**

On May 13, 2015, the offender was admitted to the Residential Reentry Center (VOA) to begin a placement for up to 180 days, as was ordered by the Court as a modification of his conditions. Three days later, on May 16, 2015, the offender received his first Incident Report for smoking in the facility. The offender denies this violation.

On May 17, 2015, the offender was returning to the facility when he tried to hand a contraband item, a lighter, to another resident. When the offender was searched by the correctional officer, an object was detected down the front of his pants. The offender was asked to surrender the item and he removed a smart phone, which is contraband and an unauthorized item, from his person. The offender admitted he committed this violation of facility rules.

4. The parties stipulated that:
- (a) The highest grade of violation is a Grade B violation.
 - (b) Defendant’s criminal history category is VI.
 - (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 21 to 27 months’ imprisonment.
5. The parties jointly recommended a sentence of 21 months with no supervised release to violation. Defendant also requested the Court make a recommendation to include mental health and drug treatment during incarceration and placement at FCI Terre Haute.

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions in the petition, that his supervised release should be revoked, and that he should be sentenced to the custody of the Attorney General or his designee for a period of 21 months with no supervised release to follow. The Court also makes a recommendation to the Federal Bureau of Prisons to provide mental health and drug treatment as well as placement at FCI Terre Haute. The Defendant is to be taken into custody immediately pending the District Judge's action on this Report and Recommendation.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties waived the fourteen-day period to object to the Report and Recommendation.

Dated: 05/27/2015

A handwritten signature in black ink, appearing to read "T. Baker", written over a horizontal line.

Tim A. Baker
United States Magistrate Judge
Southern District of Indiana

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